

Twelfth Meeting of the U.S.-EU Joint Committee Record of Meeting

1. The twelfth meeting of the U.S.-EU Joint Committee took place in Washington, D.C., on 15 January 2013. The list of participants is at Attachment 1. The agenda is at Attachment 2.

Implementation of the U.S.-EU Air Transport Agreement

2. The European delegation updated the U.S. delegation on the status of EU Member State ratification of the U.S.-EU Air Transport Agreement (Agreement) noting that all but two EU Member States have completed their ratification process. The European delegation added that Croatia is scheduled to join the EU on July 1, 2013, and noted its interest in Croatia becoming a party to the Agreement. The U.S. delegation thanked the European delegation for these updates, and expressed its pleasure in the agreement being applied provisionally. On Croatia's accession to the Agreement, the U.S. delegation acknowledged that some details need to be worked out, and expressed its willingness to work closely on the matter with the EU.

3. The European delegation observed that the Legal Working Group with respect to Article 21 had nothing new to share at this time and that the EU side was working towards a counter offer in response to the U.S. proposal. Both delegations confirmed the importance of this issue and indicated their commitment to work together.

Aviation Security developments in 2012

4. On aviation security, the delegations noted the significant progress made in 2012. With regard to mutual recognition of air cargo security requirements, both sides successfully commenced implementation and noted that mutual recognition has thus far contributed significantly to the elimination of duplication of security controls, and as a result, assisted in cutting costs and saving time for cargo operators without compromising on security. On liquids, the delegations reaffirmed that the restrictions on the carriage of liquids, aerosols and gels in cabin baggage are intended to be temporary and that they are intended to be replaced by screening in a phased approach that ensures the maintenance of the necessary high level of security as well as operational feasibility. The delegations noted that in July, the Transportation Security Administration (TSA) and the European Commission, together with aviation industry stakeholders, had signed a Statement of Intent regarding the future of liquids screening at airports by mapping out a strategy for lifting all restrictions. The first step of that strategy was now underway with draft EU legislation in the final stages of approval, to require by the end of January 2014, screening of liquids sold as duty-free and liquids that are used for medicinal or dietary purposes. The delegations intend to define subsequent steps together, taking into account experience gained from the implementation of screening as of January 2014 and experience gained from pilot programs. The delegations pledged to continue working together on the aforementioned issues and to forge closer co-operation in the year ahead.

4.a Finally, TSA provided an update on the status of its foreign repair stations' security rulemaking activity. The rule was signed by the Secretary of Homeland Security on January 11, 2013, and the Office of Management and Budget has 90 days to evaluate and comment once they accept it for review. TSA also noted it is working proactively with the FAA in order to move ahead with repair station certifications once the rule is final.

Review of Article 21 provisions

5. The European delegation underscored the importance of Article 21 of the Agreement, reiterated its view that it is essential to remove barriers to airline access to global capital markets in order to develop a true transatlantic market, and referred to the recent Commission Communication on the EU's External Aviation Policy endorsed by the December 2012 Council. The U.S. side noted that changes to the ownership and control of U.S. airlines such as the EU is seeking remain a sensitive topic and would require Congress to revise U.S. law. The U.S. delegation confirmed that there has been no change in U.S. policy on the investment issue, and stated that it would be premature to discuss the scope of possible trade and investment negotiations.

Airport Issues

6. The U.S. delegation, in response to concerns regarding Customs and Border Protection (CBP) staffing at U.S. airports, provided an overview of its processes used for considering approval of schedules at "landing rights" airports, and also previewed improvements in processing travellers through immigration to address lengthy waiting time at peak periods. The European delegation thanked the U.S. delegation for the information, noted the need for CBP to continue to work on addressing outstanding concerns, and underscored the importance of continued communication between CBP and air carriers on these issues, recalling the recent discussion regarding arrival times at Washington Dulles International Airport for two EU airlines. Both delegations opined that "trusted traveller" programs could help alleviate airport resource constraints and that ICAO may be able to play a useful role in this increasingly global issue.

7. The European delegation expressed concern over the competitive implications of CBP's potential expansion of pre-clearance to Abu Dhabi and the "third party payer precedent". The U.S. delegation said no final decision had been made yet to establish a U.S. preclearance facility in Abu Dhabi.

8. The European delegation updated the United States on the three parts of the EU airport package. On groundhandling, the European delegation indicated that the proposal was being given further review in the European Parliament. The U.S. delegation noted that it would welcome more third-party competition, but that self-handling remains the key requirement.

9. On slot allocation, the Commission proposal was to increase the usage requirement and the length of a slot series. The U.S. delegation noted that the Council and the Parliament had not supported the changes. The U.S. delegation also expressed ongoing concern regarding the implications of the definition of "new entrant." In the U.S. view, new entrants providing intra-EU services, primarily EU airlines, would receive too great a priority in the allocation of available slots. The European delegation noted the concerns but stated its belief that the proposed procedure is fair and non-discriminatory as new entrants providing intra-EU services, primarily EU airlines, would receive priority in the allocation of available slots subject to additional obligations compared to other new entrants.

10. The U.S. delegation expressed concerns regarding the imposition for reasons related to noise of some operational restrictions, and consideration of the implementation of others, at some EU airports, without due regard to the Balanced Approach. The U.S. delegation noted that under the Agreement, all parties—and thus all EU Member States—affirmed their commitment to apply the Balanced Approach, and that this required certain processes and analyses, including the consideration of other measures before settling on operational

restrictions. The European delegation stated that the Commission's proposed noise Regulation would give the EU important new tools in ensuring that the Balanced Approach is followed by airports in EU Member States. The two delegations had differing views on whether the version likely to emerge from Parliament would meet the requirements set forth in Article 21 of the Agreement, and acknowledged that the proposal is still "a work in progress".

11. The U.S. delegation also expressed concerns with the concept of marginally compliant aircraft as incorporated in the proposed noise Regulation of the EU's airport package. Specifically, the U.S. delegation noted that the term "marginally compliant aircraft" (MCA) has no meaning in ICAO. Consequently, using this term would create a new standard for airlines to observe. The European delegation acknowledged U.S. concerns on the definition of MCA, and offered to relay those concerns to their experts.

12. The U.S. delegation thanked France and Germany for the very informative bilateral video conferences to better understand the application of the Balanced Approach to address noise issues at French and German airports. It looked forward to reviewing the detailed documents Germany had agreed to provide, as well as documents made available by Finland. The European delegation confirmed that EU Member States found the bilateral exchanges very useful, and recalled that noise is often a very important issue, given that a number of EU airports are close to major population centres. The U.S. provided a status update on the Part 161 Study at Los Angeles International Airport. Part 161 Study (Notice and Approval of Airport Noise and Access Restrictions) is a comprehensive analysis following the Balanced Approach that airports must follow when proposing any noise or operational access restrictions on aircraft. The U.S. delegation affirmed its intention to continue to provide updates as required by the Air Transport Agreement.

13. The U.S. delegation voiced ongoing concern over the differentiated fee scheme in place at Italian airports. The European delegation explained that the Commission services had launched an inquiry with Italian authorities on this issue as described in the Commission's letter to the U.S. Department of State dated 14 December 2012. The Italian representative said that Italy was working on an answer to the Commission's inquiry, adding that the fee scheme is not discriminatory on the basis of nationality of carriers. The U.S. delegation thanked the European delegation, noted the availability of remedial procedures at the Department of Transportation, and stressed the need for timely resolution.

Cooperation in efforts to develop air traffic management systems

14. The delegations discussed opportunities for cooperation regarding SESAR/NextGen technologies and expressed support for the topic being discussed at future meetings of the Joint Committee. Each delegation noted recent progress and ongoing technical work. The U.S. delegation provided a technical update and expressed appreciation for European willingness to coordinate on demonstrations for project tenders to potential vendors. Both delegations also expressed interest in future Joint Committee discussions of UAS/Remotely Piloted Aircraft Systems (RPAS) issues and the potential for joint demonstration projects.

Issues at ICAO

15. The U.S. delegation noted with thanks the Commission's recent "stop the clock" proposal for a year on enforcement of the EU Emissions Trading Scheme (ETS) with respect to flights between EU points and points outside the EU. The U.S. delegation confirmed that its concerns regarding ETS remain unchanged, and stated its support for the work underway at

ICAO to develop a multilateral approach to addressing aviation-related greenhouse gas (GHG) emissions. The European delegation emphasized the importance of working together and making progress, and seizing the opportunity of the ICAO 38th Assembly as there would be no second stopping of the clock; the EU considered that it was feasible to find agreement at the Assembly on a single global measure and on a framework that States could use. The European delegation requested clarification of recent U.S. legislation regarding U.S. air carrier participation in ETS, with specific interest on its implications for the actions of U.S. air carriers under “stop the clock.” The U.S. delegation noted that the legislation authorizes the Secretary of Transportation to prohibit U.S. airlines from complying with the EU ETS, but that the Secretary has taken no such action, and therefore the legislation has had no effect on actions U.S. air carriers may elect to take while the clock is stopped.

16. Both delegations announced their completion of necessary steps to implement the latest ICAO engine emissions standards, including the CAEP/6 NOx production cutoff.

17. The European delegation expressed appreciation for ongoing cooperation on common goals for the 9th meeting of ICAO’s Committee on Aviation Environmental Protection, CAEP/9 (4-15 February 2013 in Montreal), and noted that progress on a new noise stringency standard is necessary for any successful attempt to forestall operating restrictions such as night flight bans. The U.S. delegation noted that while we may have different views on the stringency standard, cooperation thus far was working well and that it should continue.

18. The U.S. delegation outlined its approach to the upcoming ICAO Sixth Worldwide Air Transport Conference (ATConf 6), 18-22 March 2013 in Montreal, noting in particular its concerns regarding ICAO’s ambitious goals including establishment of a global framework for the regulation of the economic aspects of international aviation. It expressed concerns about, *inter alia*, the proposal to develop a set of core principles on fair competition, but expected the U.S. and EU to take similar positions on other issues such as consumer protection. The European delegation expressed disappointment with the U.S. position and described the EU’s four-pronged agenda for the conference, which included encouraging ICAO to adopt a long-term vision for market access liberalization on a global scale, ownership and control liberalization, fair competition, and consumer protection. The European delegation nevertheless hoped that the U.S. and the EU would be able to reach as many common positions as possible, and both sides expressed their intention to discuss these issues further the following day at the U.S.-European Civil Aviation Conference (ECAC) meeting.

Market and competition developments

19. Both delegations took note that UPS had withdrawn its bid to acquire TNT Express ahead of a decision of the European Commission Directorate General for Competition, the EU competition authority.

20. In respect to the Article 17 *bis* on Social Dimension, both delegations affirmed their commitment not to undermine social protections. Delegations followed up on all-cargo traffic rights after the Joint Committee meeting.

21. The European delegation expressed the view that the American Airlines Chapter 11 restructuring was significant in a broader transatlantic context, possibly leaving the US market with only three legacy carriers and Southwest, with implications for alliances and EU carriers.

22. Both delegations took note of the announced joint venture between Virgin Atlantic and Delta Air Lines.

Consumer protection

23. The European delegation updated the United States on the proposed revision to the EU air passenger rights Regulation No. 261/2004, explaining that the core of the revision lay in ensuring the Regulation's better application and enforcement. The Commission proposal includes clarification of the term "extraordinary circumstances" for purposes of exempting carriers from the requirements of the regulation. The U.S. delegation thanked the European side for the update and said it would watch developments closely. Both sides expressed their intent to discuss this issue further if it becomes necessary.

AOB

24. The U.S. delegation sought information about the lawsuit that IAG and British Airways had filed against the Spanish pilots union (SEPLA) and IFALPA. The European delegation said the matter would be judicially determined.

25. The U.S. delegation sought information about the implementation process for the Commission proposal for an implementing regulation on third-country operator (TCO) authorizations. The European delegation explained that, while the regulation would apply to all TCOs, minimal administrative burden is expected for operators with existing FAA certificates unless inspections have identified serious issues.

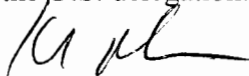
26. The U.S. delegation introduced briefly several issues that had recently been raised by U.S. industry, including French CO2 reporting requirements and the impact of potential fleet mix changes at London Heathrow. Both delegations agreed to follow up on these matters after the Joint Committee meeting.

27. The European delegation proposed using the next Joint Committee meeting to focus on the ICAO 38th Assembly, scheduled for autumn 2013. The U.S. delegation applauded our ongoing strong relationship and cooperation in ICAO, and added that U.S.-EU leadership is critical and necessary to move issues forward at the Assembly.

28. The European delegation informed the United States that Iceland has offered to host the next Joint Committee meeting, and that, while an exact date was not yet determined, it would be between mid-May and late June of 2013. The U.S. delegation accepted this suggestion with pleasure.

Signed on 5 June 2013.

For the U.S. delegation:



Krishna R. Urs

For the European delegation:



Matthew Baldwin

Attachments:

- 1 – List of Participants
- 2 – Approved Agenda

U.S.-EU Joint Committee

15 January 2013

Washington, D.C.

U.S. Delegation

Department of State

Mr. Krishna Urs, Deputy Assistant Secretary for Transportation Affairs
Mr. Wendell Albright, Director, Office of Aviation Negotiations
Ms. Megan Walklet-Tighe, Aviation Team Leader, Office of Transportation Policy
Ms. Elizabeth Kiingi, Attorney-Adviser, Office of the Legal Adviser
Ms. Kristin Westphal, Office of Aviation Negotiations
Ms. Carolina Hidea, Office of European Union and Regional Affairs

Department of Transportation

Ms. Susan Kurland, Assistant Secretary for Aviation and International Affairs
Mr. Robert Letteney, Deputy Assistant Secretary for Aviation and International Affairs
Ms. Mary Street, Assistant Director for Negotiations, Office of International Aviation
Mr. John Kiser, Chief of Pricing and Multilateral Affairs, Office of International Aviation
Mr. Christopher T. "Kip" Tourtellot, Attorney Advisor, Office of International Law
Ms. Jennifer Thibodeau, Attorney Advisor, Office of International Law

Federal Aviation Administration

Ms. Julie Oettinger, Assistant Administrator for Policy, International Affairs and Environment
Mr. Steve Bradford, Chief Scientist - Architecture and NextGen Development
Ms. Lourdes Maurice, Executive Director, Office of Environment and Energy
Mr. Kevin Welsh, Senior International Advisor, Office of Environment and Energy
Mr. Ian Ross, NextGen International Affairs Officer
Mr. John Masters, International Programs and Policy Division, Flight Standards Service
Ms. Rebecca Barthel, Office of International Affairs

Department of Homeland Security Transportation Security Administration

Mr. David Gordner, Regional Manager, Europe
Mr. Anthony Giovanniello, Office of the Chief Counsel

Department of Commerce

Mr. Eugene Alford, Air Transport Specialist

Department of Homeland Security Customs and Border Protection

Mr. John Wagner, Executive Director, Admissibility and Passenger Programs

Environmental Protection Agency

Mr. Maurice LeFranc, Jr., Senior Advisor, Office of Air and Radiation
Mr. Joel Beauvais, Senior Advisor, Office of the General Counsel

Industry Associations

Mr. Russell Bailey, Air Line Pilots Association
Ms. Cecilia Bethke, Airlines for America
Ms. Rosalind K. Ellingsworth, Independent Pilots Association
Ms. Diane Peterson, Airports Council International – North America

Mr. Bob Coffman, Allied Pilots Association
Mr. Ed Smith, Senior Vice President for International and Environmental Affairs, General
Aviation Manufacturers Association
Mr. Paul Doell, Director of Government Affairs, National Air Carrier Association
Mr. Kevin Henry, Governmental Affairs, Southwest Airlines Pilots Association

Environmental Organizations

Ms. Pamela Campos, Attorney, Environmental Defense Fund

European Delegation

European Commission

Mr. Matthew Baldwin, DG MOVE, Director, Aviation and International Transport Affairs
Ms. Jana Rejtharova, DG MOVE, Policy Officer, International Transport Affairs
Mr. Timothy Fenoulhet, DG MOVE, Policy Officer, Aviation Safety
Mr. Damien Meadows, DG CLIMA, Head of Unit, International Carbon Market, Aviation and
Maritime

European External Action Service

Mr. Felix Leinemann, Delegation of the European Union to the U.S., First Secretary-
Transport
Mr. David Batchelor, Delegation of the European Union to the U.S., SESAR JU Liaison
Officer
Mr. Julian Hall, Delegation of the European Union to the U.S., EASA

EU Member States

Mr. Jonathan Moor, Director General Civil Aviation, UK Department for Transport
Mr. Adam Simmons, Head of International Aviation, Safety and Environment Division, UK
Department for Transport
Mr. Simon Knight, Head of Negotiations for CIS, Asia-Pacific and North American,
International Aviation, Safety and Environment Division, UK Department for
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Mr. Frank Durinckx, Director General Civil Aviation, Belgium
Mrs. Ellen Bien, Acting Director General Civil Aviation, Ministry of Infrastructure and the
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Mr. Hans de Jong, Special Advisor to the Director General, Directorate of Civil Aviation,
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Mr. François Théoleyre, Deputy-Director for Airlines and Air Services, French Civil Aviation
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Ms. Anna Iwanicka-Quinn, Secretary, Economic Section, Embassy of Poland, Washington
Mr. Ottar Ostnes, Director General, Ministry of Transport and Communications, Norway
Mr. Raul Medina Caballero, Deputy Director of Air Transport, Spanish Directorate General of
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Ms. Monica Emilia Junquera Lantero, Embassy of Spain, Washington

Industry Associations

Mr. Gérard Borel, General Counsel, Airports Council International-Europe
Mr. Athar Husain Khan, Acting Secretary General, Association of European Airlines
Mr. Stephen Guynan, European Cargo Alliance
Ms. Ekaterina Yordanova, Representative, European Transport Workers' Federation
Mr. James Phillips, European Cockpit Association

12th U.S.-EU Joint Committee meeting
Washington, D.C., January 15, 2013

Agenda

- ❖ **Introductions and Adoption of Agenda**
- ❖ **Adoption and signature of the Record of Meeting of the 30 May 2012 Joint Committee in Rome, Italy**
- ❖ **Implementation of the U.S.-EU Air Transport Agreement**
 - Status of ratification process
 - Accession of Croatia to the EU
 - Legal Working Group
- ❖ **Aviation Security developments in 2012**
 - Passenger and cargo facilitation progress in 2012
 - Foreign repair stations/maintenance organizations
- ❖ **Review of Article 21 provisions**
 - Ownership & Control, and Noise
 - EU-U.S. High Level Working Group on Jobs and Growth
- ❖ **Airport Issues**
 - CBP Processing Procedures
 - EU airport package (noise, slots, ground handling)
 - Noise restrictions at EU airports
 - Charges at Italian airports
- ❖ **Cooperation in efforts to develop air traffic management systems**
 - SESAR and NextGen / ICAO 12th Air Navigation Conference follow-up
- ❖ **Issues at ICAO**
 - Aviation emissions: ICAO process
 - Implementation of ICAO CAEP/6 NOx production cut-off
 - EU and U.S. positions at CAEP/9 in 2013
 - The ICAO Air Transport Conference 2013
- ❖ **Market and competition developments**
 - UPS acquisition of TNT Express / TNT Airways
 - Social model of U.S. crews operating from a base in the EU
 - American Airlines Chapter 11 bankruptcy